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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

Cr. M.P. No. 151/2006

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Cr M.P. 151/2006

(Single Bench: Hon'ble Mr. Justice Dhirendra Mishra)

Petitioner Smt. Sulochana Kashyap, wife of Shri Umes Kashyap, aged about 45 years, Caste Bahelia, (ST), resident of Magarpara Road, Police Station Civil Lines, Bilaspur, Tahsil & Distt. Bilaspur (C.G.)

Vs

Respondents

1. State of Chhattisgarh, through the Station House Officer, Civil Line Police Staiton, Bilaspur, Tahsil & Distt. Bilaspur (C.G.)
2. Bahskar Rao, S/o Khushal Rao, resident of Dabripara, Police Station Kotwali, Bilaspur, Tahsil & Distt. Bilaspur (C.G.)

1.8.2007

Mr. S.I. Ali, Advocate for the applicant.

Mr. G.K. Beriwal, Dy. A.G. for respondent No.1.

Heard.

I.A. No.1/07, an application for taking documents on record is allowed. Documents are taken on record.

By this petition under Section 482 of Cr.P.C. the applicant has prayed for quashing of First Information Report dated 24.1.2006

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XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

Cr.M.P-No. 151/06

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

registered under Crime No.45/2006 in the Police Station Civil Lines, Bilaspur.

This is second application of the nature, as earlier application i.e. M.Cr.C. No.1585/06 filed by the applicant was dismissed on 23.8.2006 for want of prosecution.

The grounds urged by learned counsel for the applicant orally as well as in the memo of petition are that the matter is purely of civil nature and no offence under Section 420 of IPC is made out, as is evident from the FIR itself. Cause of action, if any, was available to the previous purchaser, as agreement to sale has been entered into with the complainant only subsequent to earlier agreement with respect to the same land. The complaint is pre-mature, as the same has been filed without notice to the applicant for specific performance of the agreement and the previous purchaser namely Lav Kumar Dhuri has already submitted in writing before the police that the agreement entered between him and the applicant stands cancelled.

I have heard learned counsel for the petitioner. I have also perused the FIR.

From perusal of the FIR dated 24.1.2006 lodged by complainant Bhaskar Rao, it is observed that the allegations have been made that the applicant has entered into an agreement of sale with respect to the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

Cr. M. P No 151/06

मामला क्रमांक ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

disputed land, obtained Rs.10,000/- but he is not executing the sale deed despite repeated reminders. He has also learnt that the applicant has already entered into an agreement of sale with one Lav Kumar Dhuri and thus the applicant has entered into an agreement of sale by practicing fraud with a purpose of cheating.

From the allegations available in the FIR prima-facie offence under Section 420 of IPC is made out.

As far as the other defence taken by the petitioner in the memo of petition is concerned, the same are matters of investigation and cannot be adjudicated in the petition for quashing of FIR.

In the result, the petition has no substance, the same is liable to be dismissed and it is hereby dismissed.

Sd/-
Dhirendra Mishra
Judge

GRPRJ — FS/246— 2/2007 — 50,000.